



9 MAY 2003

David J. Simonelli  
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In re Application of	:	
WITTWER, Bruno	:	
Application No.: 09/831,615	:	<b>DECISION ON THIRD</b>
PCT No.: PCT/AU99/00992	:	
Int. Filing Date: 10 November 1999	:	<b>RENEWED PETITION</b>
Priority Date Claimed: 10 November 1998	:	
Attorney Docket No.: 19724-87004	:	<b>UNDER 37 CFR 1.47(b)</b>
For: PISTON PUMP	:	

This decision is in response to applicant's "Renewed Petition Under 37 CFR §1.47(b)," filed 29 April 2003.

### **BACKGROUND**

On 25 February 2003, a decision dismissing applicant's second renewed petition under 37 CFR 1.47(b) was mailed. Applicant failed to satisfy items (4) and (5).

On 29 April 2003, applicant submitted a third renewed petition which was accompanied by, *inter alia*, a declaration signed by counsel on behalf of the 37 CFR 1.47(b) applicant, and a legal memorandum by Australian counsel Paul Francis Fletcher ("Fletcher Decl.").

On 16 May 2003, counsel provided a supplemental statement via facsimile after a request from James Thomson, PCT Legal Office.

### **DISCUSSION**

The 37 CFR 1.47(b) applicant failed to satisfy items (4) and (5) in the second renewed petition filed 10 September 2002.

In the third renewed petition, applicant included a declaration signed by counsel David J. Simonelli who declares in a letter filed via facsimile on 16 May 2003 that "he is authorized by Solar Energy Systems Pty Ltd to execute the declaration on behalf of Mr. Bruno Wittwer." The name, residence, post office address and citizenship of the sole inventor are listed on the declaration. This declaration is in compliance with 37 CFR 1.497(a) and (b) and satisfies the requirements of section 409.03(b) of the MPEP which states, in part: "[w]here an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, . . . the attorney or agent may simply state that he or

she is authorized to sign on behalf of the corporation. Thus item (4) is satisfied.

Concerning item (5), as requested by the decision dated 25 February 2003 the 37 CFR 1.47(b) applicant has provided a legal memorandum by an Australian Patent Attorney, Mr. Paul Fletcher. In the memorandum, Mr. Fletcher provided a detailed legal analysis of the written agreement between Solar Energy Systems Ltd. and Bruno Wittwer dated 22 January 1999 discussing the meaning of various clauses in the agreement and pertinent Australian case law. Mr. Fletcher concludes that "in our opinion, an Australian Court of competent jurisdiction would, by weight of authority in Australia, award to SES title to the invention the subject of PCT/AU/99/00992, and to any foreign filed patent applications including US Serial Number 09/831,615." Fletcher Decl. at ¶ 12.

This memorandum meets the requirements of section 409.03(f) of the MPEP. Therefore, item (5) of 37 CFR 1.47(b) is satisfied.

Accordingly, the 37 CFR 1.47(b) applicant has now met all of the requirements of 37 CFR 1.47(b).


### **CONCLUSION**

Applicant's renewed petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventor at the last known address of record as set forth in the papers filed 27 August 20012 and a notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 10 November 1999, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 29 April 2003.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

  
James Thomson  
Attorney Advisor  
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19 MAY 2003

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WITTWER, Bruno  
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For: PISTON PUMP

Dear Mr. Wittwer:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. § 118. Should a patent be granted, you will be designated as the inventor.

As the inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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